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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY:

DEPUTY

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

**2150 SIGOURNEY JOSSIAH -  
FRANCIS LEE ASSOCIATION,  
SUING ON BEHALF OF THEODORE  
A. PINNOCK AND ITS MEMBERS;  
and THEODORE A. PINNOCK, An  
Individual,**

**Plaintiffs,**

**v.**

**CCS INVESTMENTS, INC., d.b.a.  
THE VILLAGE GRILLE; ANTHONY  
A. CIANI AND LISA W. CIANI  
REVOCABLE TRUST, dated 02-07-  
92; And DOES 1 THROUGH 10,  
Inclusive**

**Defendants.**

Case No.: **06CV 1882** **WQH LSP**

**CIVIL COMPLAINT:**

**CLASS ACTION**

**DISCRIMINATORY PRACTICES IN  
PUBLIC ACCOMMODATIONS**  
[42 U.S.C. 12182(a) ET. SEQ;  
CIVIL CODE 51, 52, 54, 54.1]

**DEMAND FOR JURY TRIAL**  
[F.R.Civ.P. rule 38(b)]

**INTRODUCTION**

Plaintiffs 2150 SIGOURNEY JOSSIAH - FRANCIS LEE ASSOCIATION,  
SUING ON BEHALF OF THEODORE A. PINNOCK AND ITS MEMBERS; and  
THEODORE A. PINNOCK, An Individual, herein complain, by filing  
this Civil Complaint in accordance with rule 8 of the Federal

1 Rules of Civil Procedure in the Judicial District of the United  
2 States District Court of the Southern District of California, that  
3 Defendants have in the past, and presently are, engaging in  
4 discriminatory practices against individuals with disabilities,  
5 specifically including minorities with disabilities. Plaintiffs  
6 allege this civil action and others substantial similar thereto  
7 are necessary to compel access compliance because empirical  
8 research on the effectiveness of Title III of the Americans with  
9 Disabilities Act indicates this Title has failed to achieve full  
10 and equal access simply by the executive branch of the Federal  
11 Government funding and promoting voluntary compliance efforts.  
12 Further, empirical research shows when individuals with  
13 disabilities give actual notice of potential access problems to  
14 places of public accommodation without a federal civil rights  
15 action, the public accommodations do not remove the access  
16 barriers. Therefore, Plaintiffs make the following allegations in  
17 this federal civil rights action:

18  
19 **JURISDICTION AND VENUE**

20 1. The federal jurisdiction of this action is based on the  
21 Americans with Disabilities Act, 42 United States Code 12101-  
22 12102, 12181-12183 and 12201, et seq. Venue in the Judicial  
23 District of the United States District Court of the Southern  
24 District of California is in accordance with 28 U.S.C. § 1391(b)  
25 because a substantial part of Plaintiffs' claims arose within the  
26 Judicial District of the United States District Court of the  
27 Southern District of California.

28 ///

**SUPPLEMENTAL JURISDICTION**

2. The Judicial District of the United States District Court of the Southern District of California has supplemental jurisdiction over the state claims as alleged in this Complaint pursuant to 28 U.S.C. § 1367(a). The reason supplemental jurisdiction is proper in this action is because all the causes of action or claims derived from federal law and those arising under state law, as herein alleged, arose from common nucleus of operative facts. The common nucleus of operative facts, include, but are not limited to, the incidents where Plaintiffs were denied full and equal access to Defendants' facilities, goods, and/or services in violation of both federal and state laws when they attempted to enter, use, and/or exit Defendants' facilities as described below within this Complaint. Further, due to this denial of full and equal access, 2150 SIGOURNEY JOSSIAH - FRANCIS LEE ASSOCIATION, SUING ON BEHALF OF THEODORE A. PINNOCK AND ITS MEMBERS; and THEODORE A. PINNOCK, An Individual, and other persons with disabilities were injured. Based upon the said allegations, the state actions, as stated herein, are so related to the federal actions that they form part of the same case or controversy and the actions would ordinarily be expected to be tried in one judicial proceeding.

**NAMED DEFENDANTS AND NAMED PLAINTIFF**

3. Defendants are, and, at all times mentioned herein, were, a business or corporation or franchise organized and existing and/or doing business under the laws of the State of California. Plaintiffs are informed and believe and thereon allege that

1 Defendant CCS INVESTMENTS, INC., d.b.a. THE VILLAGE GRILLE is  
2 located at 830 Kline Street, La Jolla, California, 92037.  
3 Plaintiffs are informed and believe and thereon allege that  
4 Defendant ANTHONY A. CIANI AND LISA W. CIANI REVOCABLE TRUST,  
5 dated 02-07-92, is the owner, operator, and/or lessor of the real  
6 property located at 830 Kline Street, La Jolla, California, 92037,  
7 Assessor Parcel Number 350-321-16. Defendant ANTHONY A. CIANI AND  
8 LISA W. CIANI REVOCABLE TRUST, dated 02-07-92, is located in San  
9 Diego County, California.

10 4. The words Plaintiff, Plaintiffs, Plaintiff's Member, and  
11 Plaintiff's Members as used herein specifically include 2150  
12 SIGOURNEY JOSSIAH - FRANCIS LEE ASSOCIATION, SUING ON BEHALF OF  
13 THEODORE A. PINNOCK AND ITS MEMBERS; and THEODORE A. PINNOCK, An  
14 Individual, and persons associated with 2150 SIGOURNEY JOSSIAH -  
15 FRANCIS LEE ASSOCIATION, SUING ON BEHALF OF THEODORE A. PINNOCK  
16 AND ITS MEMBERS; and THEODORE A. PINNOCK, An Individual, who  
17 accompanied them to Defendants' facilities.

18 5. Defendants Does 1 through 10, were at all times relevant  
19 herein subsidiaries, employers, employees, agents, of CCS  
20 INVESTMENTS, INC., d.b.a. THE VILLAGE GRILLE and/or ANTHONY A.  
21 CIANI AND LISA W. CIANI REVOCABLE TRUST, dated 02-07-92.

22 Plaintiffs are ignorant of the true names and capacities of  
23 Defendants sued herein as Does 1 through 10, inclusive, and  
24 therefore sue these Defendants by such fictitious names.  
25 Plaintiffs will pray leave of the court to amend this complaint to  
26 allege the true names and capacities of the Does when ascertained.

27 6. Plaintiffs are informed and believe, and thereon allege, that  
28

1 Defendants and each of them herein were, at all times relevant to  
2 the action, the owner, lessor, lessee, franchiser, franchisee,  
3 general partner, limited partner, agent, employee, representing  
4 partner, or joint venturer of the remaining Defendants and were  
5 acting within the course and scope of that relationship.

6 Plaintiffs are further informed and believe, and thereon allege,  
7 that each of the Defendants herein gave consent to, ratified,  
8 and/or authorized the acts alleged herein to each of the remaining  
9 Defendants.

10 **STATEWIDE CLASS ACTION ALLEGATIONS UNDER FED.R.CIV.P. 23(b) AS TO**  
11 **ALL DEFENDANTS**

12 7. Plaintiffs are members of a group within the State of  
13 California composed of persons with a wide range of disabilities,  
14 limited to persons who use wheelchairs for mobility, who must be  
15 able to access restaurant establishments, like Defendants'  
16 establishment located within the property located at 830 Kline  
17 Street, La Jolla, California, 92037, Assessor Parcel Number 350-  
18 321-16. Plaintiffs are precluded from equal access to Defendants'  
19 establishment so meaningfully because the establishment fails to  
20 provide access for members of the disability community who use a  
21 wheelchair for mobility to the entrance, the interior path of  
22 travel, and the restroom facilities. The Supreme Court of the  
23 United States has held as long as the class representative  
24 provides adequate representation for the class' interests, the  
25 court has the power to adjudicate the rights and obligations of  
26 all class members - even those who would otherwise be beyond the  
27 reach of its personal jurisdiction. Phillips Petroleum Co. v.  
28 Shutts, 472 US 797 (1985). This case stands for the proposition

1 that minimum contacts are not required with nonresident members of  
2 a plaintiff class because, "the burdens placed by a State upon  
3 absent class action plaintiff are not of the same order or  
4 magnitude as those it places on an absent defendant." Id.  
5 Plaintiffs allege they will insure class members shall receive  
6 adequate notice of the proceedings and the opportunity to "opt  
7 out," if required

8 8. Defendants have conducted themselves such as to establish a  
9 pattern and practice of architectural discrimination. Plaintiffs  
10 allege that Defendants have control over each and every facility,  
11 establishment, and/or business located within the property located  
12 at 830 Kline Street, La Jolla, California, 92037, Assessor Parcel  
13 Number 350-321-16. Accordingly, Plaintiffs allege Defendants are  
14 responsible for removing architectural barriers at Defendants'  
15 facilities and the establishment/business contained therein.

16 9. For the aforementioned reasons, Plaintiffs allege they are  
17 proper class representatives for members of the disability  
18 community who use a wheelchair for mobility because the members of  
19 the disability community who use a wheelchair for mobility are so  
20 numerous that joinder is impracticable due to the fact more than  
21 one hundred (100) persons fall within the membership description.  
22 Also, the questions of law or fact are so common because the  
23 members of the disability community who use a wheelchair for  
24 mobility are being denied their civil rights under federal and  
25 state laws - that is, each member of the disability community who  
26 use a wheelchair for mobility suffered substantially similar  
27 violations relating to the entrance, the interior path of travel,  
28

1 and the restroom facilities. Further, the claims or defenses of  
2 the representative parties are typical - Plaintiffs have the right  
3 to access facilities, establishments, and businesses like those  
4 within the property located at 830 Kline Street, La Jolla,  
5 California, 92037, Assessor Parcel Number 350-321-16, for many  
6 reasons such as the patronage of restaurant establishments.

7 Defendants' facilities are open to the general public and  
8 Plaintiffs have been denied access because of violations, as  
9 outlined above and specifically addressed elsewhere within this  
10 Civil Complaint.

11 10. Additionally, Plaintiffs, as the named representatives, will  
12 fairly and adequately represent the interests of the class because  
13 Plaintiffs and the members of the disability community in the  
14 State of California who use a wheelchair for mobility have  
15 suffered substantially similar violations. Finally, a pattern and  
16 practice exists on the part of Defendants, and each of them, of  
17 architectural discrimination at their public facilities located  
18 within the State of California. On information and good faith  
19 belief, Plaintiffs thereon allege that Defendants, prior to the  
20 passing of the Americans With Disabilities Act in 1992, conceived,  
21 commissioned, designed, and implemented among other things, a  
22 design for their public facilities, including, but not limited to  
23 the entrance, the interior path of travel, and the restroom  
24 facilities which do not meet the minimal standards outlined under  
25 the federal regulations known as the Americans With Disabilities  
26 Act Accessibility Guidelines ("ADAAG") and state regulations, also  
27 known as Title 24 of the California Building Code, and to which  
28

1 non-compliant plan they continue to utilize to the injury of the  
2 members of the class. For these reasons and the facts as stated  
3 herein, Plaintiffs have the right to maintain this statewide class  
4 action pursuant to Fed.R.Civ.P. Rule 23(b).

5  
6 **CONCISE SET OF FACTS**

7 11. Plaintiff 2150 SIGOURNEY JOSSIAH - FRANCIS LEE ASSOCIATION  
8 is an organization that advocates on the behalf of its members  
9 with disabilities when their civil rights and liberties have been  
10 violated. Plaintiff's member THEODORE A. PINNOCK is a member of  
11 Plaintiff Organization and has an impairment in that he has  
12 Cerebral Palsy and due to this impairment he has learned to  
13 successfully operate a wheelchair.

14 12. In August of 2006, Plaintiff's Member and Plaintiff THEODORE  
15 A. PINNOCK went to Defendants' CCS INVESTMENTS, INC., d.b.a. THE  
16 VILLAGE GRILLE (hereinafter "THE VILLAGE GRILLE") establishment to  
17 utilize their goods and/or services. When Plaintiff's Member and  
18 Plaintiff THEODORE A. PINNOCK patronized Defendants'  
19 establishment, he was unable to use and/or had difficulty using  
20 the public accommodations' entrance, interior path of travel, and  
21 restroom facilities at Defendants' THE VILLAGE GRILLE business  
22 establishment because they failed to comply with ADA Access  
23 Guidelines For Buildings and Facilities (hereafter referred to as  
24 "ADAAG") and/or California's Title 24 Building Code Requirements.  
25 Defendants failed to remove access barriers within the entrance,  
26 interior path of travel and restroom facilities of Defendants' THE  
27 VILLAGE GRILLE establishment.  
28



1 13. Plaintiff's Member and Plaintiff THEODORE A. PINNOCK  
2 personally experienced difficulty with said access barriers at  
3 Defendants' THE VILLAGE GRILLE establishment.

4 14. For example, the entrance to the restaurant has an  
5 impermissible high threshold. Also, the entrance door fails to  
6 have the required disability signage.

7 15. Within the restaurant, there are steps that lead to the  
8 interior seating, thereby precluding access to a member of the  
9 disability community who uses a wheelchair for mobility. There  
10 fails to be any disability signage informing disabled patrons of  
11 the location of an accessible interior path of travel to the  
12 interior dining area.

13 16. The public restroom is completely inaccessible to members of  
14 the disability community who use a wheelchair for mobility. The  
15 restroom entrance door fails to have the proper disability  
16 signage. The restroom entrance door locking mechanism fails to be  
17 accessible, as the mechanism requires tight grasping and/or  
18 twisting of the wrist to operate. There fails to be sufficient  
19 clear floor space within the restroom to allow for a wheelchair to  
20 maneuver. There fail to be any of the required grab bras around  
21 the commode and the commode is too low to be accessible. The hot  
22 water and drainage pipes under the lavatory sink fail to have the  
23 required insulation. The operable parts of the soap dispenser and  
24 the operable parts of the paper towel dispenser are mounted too  
25 high to be accessible.

26 17. Plaintiff's Member and Plaintiff THEODORE A. PINNOCK intends  
27 to return to Defendants' THE VILLAGE GRILLE establishment in the  
28

1 immediate future.

2 18. Plaintiffs' Member and Plaintiff THEODORE A. PINNOCK is  
3 presently deterred from returning due to his knowledge of the  
4 barriers to access that exist at Defendants' THE VILLAGE GRILLE  
5 establishment.

6 19. Pursuant to federal and state law, Defendants are required to  
7 remove barriers to their existing facilities. Further, Defendants  
8 had actual knowledge of their barrier removal duties under the  
9 Americans with Disabilities Act and the Civil Code before January  
10 26, 1992. Also, Defendants should have known that individuals  
11 with disabilities are not required to give notice to a  
12 governmental agency before filing suit alleging Defendants failed  
13 to remove architectural barriers.

14 20. Plaintiffs believe and herein allege Defendants' THE VILLAGE  
15 GRILLE establishment have access violations not directly  
16 experienced by Plaintiff's Member and Plaintiff THEODORE A.  
17 PINNOCK which preclude or limit access by other members of  
18 Plaintiff 2150 SIGOURNEY JOSSIAH - FRANCIS LEE ASSOCIATION or  
19 other persons with disabilities, including but not limited to  
20 violations relating to Space Allowance and Reach Ranges,  
21 Accessible Route, Protruding Objects, Ground and Floor Surfaces,  
22 Parking and Passenger Loading Zones, Curb Ramps, Ramps, Stairs,  
23 Elevators, Platform Lifts (Wheelchair Lifts), Windows, Doors,  
24 Entrances, Drinking Fountains and Water Coolers, Water Closets,  
25 Toilet Stalls, Urinals, Lavatories and Mirrors, Sinks, Storage,  
26 Handrails, Grab Bars, and Controls and Operating Mechanisms,  
27 Alarms, Detectable Warnings, Signage, and Telephones. Accordingly,  
28

1 Plaintiffs allege Defendants are required to remove all  
 2 architectural barriers, known or unknown. Also, Plaintiffs allege  
 3 Defendants are required to utilize the ADA checklist for Readily  
 4 Achievable Barrier Removal approved by the United States  
 5 Department of Justice and created by Adaptive Environments.

6 21. Based on these facts, Plaintiffs allege they were  
 7 discriminated against each time they patronized Defendants' THE  
 8 VILLAGE GRILLE establishment. Plaintiff's Member and Plaintiff  
 9 THEODORE A. PINNOCK was extremely upset due to Defendants'  
 10 conduct.

#### 11 NOTICE

12 22. Plaintiffs are not required to provide notice to the  
 13 defendants prior to filing a complaint. *Botosan v. Paul McNally*  
 14 *Realty*, 216 F.3d 827, 832 (9<sup>th</sup> Cir 2000).  
 15

#### 16 WHAT CLAIMS ARE PLAINTIFFS ALLEGING AGAINST EACH NAMED DEFENDANT

17 23. CCS INVESTMENTS, INC., d.b.a. THE VILLAGE GRILLE; ANTHONY A.  
 18 CIANI AND LISA W. CIANI REVOCABLE TRUST, dated 02-07-92; and Does  
 19 1 through 10 will be referred to collectively hereinafter as  
 20 "Defendants."  
 21

22 24. Plaintiffs aver that the Defendants are liable for the  
 23 following claims as alleged below:

#### 24 DISCRIMINATORY PRACTICES IN PUBLIC ACCOMMODATIONS

25 FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS- Claims Under The

#### 26 Americans With Disabilities Act Of 1990

27 CLAIM I AGAINST ALL DEFENDANTS: Denial Of Full And Equal Access

28 25. Based on the facts plead at ¶¶ 11 - 21 above and elsewhere in

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1 this complaint, Plaintiff's Member and Plaintiff THEODORE A.  
2 PINNOCK was denied full and equal access to Defendants' goods,  
3 services, facilities, privileges, advantages, or accommodations.  
4 Plaintiffs allege Defendants are a public accommodation owned,  
5 leased and/or operated by Defendants. Defendants' existing  
6 facilities and/or services failed to provide full and equal access  
7 to Defendants' facility as required by 42 U.S.C. § 12182(a).  
8 Thus, Plaintiff's Member and Plaintiff THEODORE A. PINNOCK was  
9 subjected to discrimination in violation of 42 United States Code  
10 12182(b)(2)(A)(iv) and 42 U.S.C. § 12188 because Plaintiff's  
11 Member and Plaintiff THEODORE A. PINNOCK was denied equal access  
12 to Defendants' existing facilities.

13 26. Plaintiff's Member and Plaintiff THEODORE A. PINNOCK has  
14 physical impairments as alleged in ¶ 11 above because his  
15 conditions affect one or more of the following body systems:  
16 neurological, musculoskeletal, special sense organs, and/or  
17 cardiovascular. Further, Plaintiff's Member and Plaintiff  
18 THEODORE A. PINNOCK' said physical impairments substantially  
19 limits one or more of the following major life activities:  
20 walking. In addition, Plaintiff's Member and Plaintiff THEODORE  
21 A. PINNOCK cannot perform one or more of the said major life  
22 activities in the manner, speed, and duration when compared to the  
23 average person. Moreover, Plaintiff's Member and Plaintiff  
24 THEODORE A. PINNOCK has a history of or has been classified as  
25 having a physical impairment as required by 42 U.S.C. §  
26 12102(2)(A).

27 ///

28

CLAIM II AGAINST ALL DEFENDANTS: Failure To Make Alterations In  
Such A Manner That The Altered Portions Of The Facility Are  
Readily Accessible And Usable By Individuals With Disabilities

27. Based on the facts plead at ¶¶ 11 - 21 above and elsewhere in this complaint, Plaintiff's Member and Plaintiff THEODORE A. PINNOCK was denied full and equal access to Defendants' goods, services, facilities, privileges, advantages, or accommodations within a public accommodation owned, leased, and/or operated by Defendants. Defendants altered their facility in a manner that affects or could affect the usability of the facility or a part of the facility after January 26, 1992. In performing the alteration, Defendants failed to make the alteration in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in violation of 42 U.S.C. §12183(a)(2).

28. Additionally, the Defendants undertook an alteration that affects or could affect the usability of or access to an area of the facility containing a primary function after January 26, 1992. Defendants further failed to make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities in violation 42 U.S.C. §12183(a)(2).

29. Pursuant to 42 U.S.C. §12183(a), this failure to make the alterations in a manner that, to the maximum extent feasible, are readily accessible to and usable by individuals with disabilities

1 constitutes discrimination for purposes of 42 U.S.C. §12183(a).  
 2 Therefore, Defendants discriminated against Plaintiffs in  
 3 violation of 42 U.S.C. § 12182(a).

4 30. Thus, Plaintiff's Member and Plaintiff THEODORE A. PINNOCK  
 5 was subjected to discrimination in violation of 42 U.S.C. §  
 6 12183(a), 42 U.S.C. §12182(a) and 42 U.S.C. §12188 because  
 7 Plaintiff's Member and Plaintiff THEODORE A. PINNOCK was denied  
 8 equal access to Defendants' existing facilities.  
 9

10 CLAIM III AGAINST ALL DEFENDANTS: **Failure To Remove Architectural**  
 11 **Barriers**

12 31. Based on the facts plead at ¶¶ 11 - 21 above and elsewhere in  
 13 this complaint, Plaintiff's Member and Plaintiff THEODORE A.  
 14 PINNOCK was denied full and equal access to Defendants' goods,  
 15 services, facilities, privileges, advantages, or accommodations  
 16 within a public accommodation owned, leased, and/or operated by  
 17 Defendants. Defendants failed to remove barriers as required by  
 18 42 U.S.C. § 12182(a). Plaintiffs are informed, believe, and thus  
 19 allege that architectural barriers which are structural in nature  
 20 exist within the following physical elements of Defendants'  
 21 facilities: Space Allowance and Reach Ranges, Accessible Route,  
 22 Protruding Objects, Ground and Floor Surfaces, Parking and  
 23 Passenger Loading Zones, Curb Ramps, Ramps, Stairs, Elevators,  
 24 Platform Lifts (Wheelchair Lifts), Windows, Doors, Entrances,  
 25 Drinking Fountains and Water Coolers, Water Closets, Toilet  
 26 Stalls, Urinals, Lavatories and Mirrors, Sinks, Storage,  
 27 Handrails, Grab Bars, and Controls and Operating Mechanisms,  
 28 Alarms, Detectable Warnings, Signage, and Telephones. Title III

1 requires places of public accommodation to remove architectural  
 2 barriers that are structural in nature to existing facilities.  
 3 [See, 42 United States Code 12182(b)(2)(A)(iv).] Failure to  
 4 remove such barriers and disparate treatment against a person who  
 5 has a known association with a person with a disability are forms  
 6 of discrimination. [See 42 United States Code  
 7 12182(b)(2)(A)(iv).] Thus, Plaintiff's Member and Plaintiff  
 8 THEODORE A. PINNOCK was subjected to discrimination in violation  
 9 of 42 United States Code 12182(b)(2)(A)(iv) and 42 U.S.C. § 12188  
 10 because they were denied equal access to Defendants' existing  
 11 facilities.  
 12

13 CLAIM IV AGAINST ALL DEFENDANTS: **Failure To Modify Practices,**  
 14 **Policies And Procedures**

15 32. Based on the facts plead at ¶¶ 11 - 21 above and elsewhere in  
 16 this complaint, Defendants failed and refused to provide a  
 17 reasonable alternative by modifying its practices, policies and  
 18 procedures in that they failed to have a scheme, plan, or design  
 19 to assist Plaintiffs and/or others similarly situated in entering  
 20 and utilizing Defendants' services, as required by 42 U.S.C. §  
 21 12188(a). Thus, Plaintiff's Member and Plaintiff THEODORE A.  
 22 PINNOCK was subjected to discrimination in violation of 42 United  
 23 States Code 12182(b)(2)(A)(iv) and 42 U.S.C. § 12188 because  
 24 Plaintiff's Member and Plaintiff THEODORE A. PINNOCK was denied  
 25 equal access to Defendants' existing facilities.

26 33. Based on the facts plead at ¶¶ 11 - 21 above, Claims I, II,  
 27 and III of Plaintiff's First Cause Of Action above, and the facts  
 28 elsewhere herein this complaint, Plaintiffs will suffer

irreparable harm unless Defendants are ordered to remove architectural, non-architectural, and communication barriers at Defendants' public accommodation. Plaintiffs allege that Defendants' discriminatory conduct is capable of repetition, and this discriminatory repetition adversely impacts Plaintiffs and a substantial segment of the disability community. Plaintiffs allege there is a national public interest in requiring accessibility in places of public accommodation. Plaintiffs have no adequate remedy at law to redress the discriminatory conduct of Defendants. Plaintiffs desire to return to Defendants' places of business in the immediate future. Accordingly, the Plaintiffs allege that a structural or mandatory injunction is necessary to enjoin compliance with federal civil rights laws enacted for the benefit of individuals with disabilities.

34. WHEREFORE, Plaintiffs pray for judgment and relief as hereinafter set forth.

SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS - CLAIMS UNDER CALIFORNIA ACCESSIBILITY LAWS

CLAIM I: Denial Of Full And Equal Access

35. Based on the facts plead at ¶¶ 11 - 21 above and elsewhere in this complaint, Plaintiff's Member and Plaintiff THEODORE A. PINNOCK was denied full and equal access to Defendants' goods, services, facilities, privileges, advantages, or accommodations within a public accommodation owned, leased, and/or operated by Defendants as required by Civil Code Sections 54 and 54.1. Defendants' facility violated California's Title 24 Accessible Building Code by failing to provide access to Defendants'



1 facilities due to violations pertaining to the Space Allowance and  
 2 Reach Ranges, Accessible Route, Protruding Objects, Ground and  
 3 Floor Surfaces, Parking and Passenger Loading Zones, Curb Ramps,  
 4 Ramps, Stairs, Elevators, Platform Lifts (Wheelchair Lifts),  
 5 Windows, Doors, Entrances, Drinking Fountains and Water Coolers,  
 6 Water Closets, Toilet Stalls, Urinals, Lavatories and Mirrors,  
 7 Sinks, Storage, Handrails, Grab Bars, and Controls and Operating  
 8 Mechanisms, Alarms, Detectable Warnings, Signage, and Telephones.

9 36. These violations denied Plaintiff's Member and Plaintiff  
 10 THEODORE A. PINNOCK full and equal access to Defendants' facility.  
 11 Thus, Plaintiff's Member and Plaintiff THEODORE A. PINNOCK was  
 12 subjected to discrimination pursuant to Civil Code §§ 51, 52, and  
 13 54.1 because Plaintiff's Member and Plaintiff THEODORE A. PINNOCK  
 14 was denied full, equal and safe access to Defendants' facility,  
 15 causing severe emotional distress.  
 16

17 CLAIM II: **Failure To Modify Practices, Policies And Procedures**

18 37. Based on the facts plead at ¶¶ 11 - 21 above and elsewhere  
 19 herein this complaint, Defendants failed and refused to provide a  
 20 reasonable alternative by modifying its practices, policies, and  
 21 procedures in that they failed to have a scheme, plan, or design  
 22 to assist Plaintiffs and/or others similarly situated in entering  
 23 and utilizing Defendants' services as required by Civil Code §  
 24 54.1. Thus, Plaintiff's Member and Plaintiff THEODORE A. PINNOCK  
 25 was subjected to discrimination in violation of Civil Code § 54.1.  
 26

27 ///

28 ///

CLAIM III: Violation Of The Unruh Act

38. Based on the facts plead at ¶¶ 11 - 21 above and elsewhere herein this complaint and because Defendants violated the Civil Code § 51 by failing to comply with 42 United States Code § 12182(b)(2)(A)(iv) and 42 U.S.C. § 12183(a)(2), Defendants did and continue to discriminate against Plaintiffs and persons similarly situated in violation of Civil Code §§ 51, 52, and 54.1.

39. Based on the facts plead at ¶¶ 11 - 21 above, Claims I, II, and III of Plaintiffs' Second Cause Of Action above, and the facts elsewhere herein this complaint, Plaintiffs will suffer irreparable harm unless Defendants are ordered to remove architectural, non-architectural, and communication barriers at Defendants' public accommodation. Plaintiffs allege that Defendants' discriminatory conduct is capable of repetition, and this discriminatory repetition adversely impacts Plaintiffs and a substantial segment of the disability community. Plaintiffs allege there is a state and national public interest in requiring accessibility in places of public accommodation. Plaintiffs have no adequate remedy at law to redress the discriminatory conduct of Defendants. Plaintiffs desire to return to Defendants' places of business in the immediate future. Accordingly, the Plaintiffs allege that a structural or mandatory injunction is necessary to enjoin compliance with state civil rights laws enacted for the benefit of individuals with disabilities.

40. Wherefore, Plaintiffs pray for damages and relief as hereinafter stated.

///

**Treble Damages Pursuant To Claims I, II, III Under The California Accessibility Laws**

41. Defendants, each of them respectively, at times prior to and including, the month of August, 2006, and continuing to the present time, knew that persons with physical disabilities were denied their rights of equal access to all portions of this public facility. Despite such knowledge, Defendants, and each of them, failed and refused to take steps to comply with the applicable access statutes; and despite knowledge of the resulting problems and denial of civil rights thereby suffered by Plaintiffs and other similarly situated persons with disabilities. Defendants, and each of them, have failed and refused to take action to grant full and equal access to persons with physical disabilities in the respects complained of hereinabove. Defendants, and each of them, have carried out a course of conduct of refusing to respond to, or correct complaints about, denial of disabled access and have refused to comply with their legal obligations to make Defendants' THE VILLAGE GRILLE establishment accessible pursuant to the Americans With Disability Act Access Guidelines (ADAAG) and Title 24 of the California Code of Regulations (also known as the California Building Code). Such actions and continuing course of conduct by Defendants, and each of them, evidence despicable conduct in conscious disregard of the rights and/or safety of Plaintiffs and of other similarly situated persons, justifying an award of treble damages pursuant to sections 52(a) and 54.3(a) of the California Civil Code.

42. Defendants, and each of their actions have also been oppressive to persons with physical disabilities and of other

1 members of the public, and have evidenced actual or implied  
2 malicious intent toward those members of the public, such as  
3 Plaintiffs and other persons with physical disabilities who have  
4 been denied the proper access to which they are entitled by law.  
5 Further, Defendants, and each of their, refusals on a day-to-day  
6 basis to correct these problems evidence despicable conduct in  
7 conscious disregard for the rights of Plaintiffs and other members  
8 of the public with physical disabilities.

9 43. Plaintiffs pray for an award of treble damages against  
10 Defendants, and each of them, pursuant to California Civil Code  
11 sections 52(a) and 54.3(a), in an amount sufficient to make a more  
12 profound example of Defendants and encourage owners, lessors, and  
13 operators of other public facilities from willful disregard of the  
14 rights of persons with disabilities. Plaintiffs do not know the  
15 financial worth of Defendants, or the amount of damages sufficient  
16 to accomplish the public purposes of section 52(a) of the  
17 California Civil Code and section 54.3 of the California Civil  
18 Code.

19 44. Wherefore, Plaintiffs pray for damages and relief as  
20 hereinafter stated.  
21

22 DEMAND FOR JUDGMENT FOR RELIEF:

23  
24 A. For general damages pursuant to Cal. Civil Code §§ 52 and  
25 54.3;

26 B. For \$4,000 in damages pursuant to Cal. Civil Code § 52 for  
27 each and every offense of Civil Code § 51, Title 24 of the  
28 California Building Code, ADA, and ADA Accessibility Guidelines;

1 C. In the alternative to the damages pursuant to Cal. Civil  
2 Code § 52 in Paragraph B above, for \$1,000 in damages pursuant to  
3 Cal. Civil Code § 54.3 for each and every offense of Civil Code §  
4 54.1, Title 24 of the California Building Code, ADA, and ADA  
5 Accessibility Guidelines;

6 D. For injunctive relief pursuant to 42 U.S.C. § 12188(a) and  
7 Cal. Civil Code § 55. Plaintiffs request this Court enjoin  
8 Defendants to remove all architectural barriers in, at, or on  
9 their facilities related to the following: Space Allowance and  
10 Reach Ranges, Accessible Route, Protruding Objects, Ground and  
11 Floor Surfaces, Parking and Passenger Loading Zones, Curb Ramps,  
12 Ramps, Stairs, Elevators, Platform Lifts (Wheelchair Lifts),  
13 Windows, Doors, Entrances, Drinking Fountains and Water Coolers,  
14 Water Closets, Toilet Stalls, Urinals, Lavatories and Mirrors,  
15 Sinks, Storage, Handrails, Grab Bars, and Controls and Operating  
16 Mechanisms, Alarms, Detectable Warnings, Signage, and Telephones.

17 E. For attorneys' fees pursuant to 42 U.S.C. § 1988, 42 U.S.C.  
18 § 12205, and Cal. Code of Civil Procedure §§ 1032 and 1033.5;

19 F. For treble damages pursuant to Cal. Civil Code §§ 52(a),  
20 and 54.3(a);  
21

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28

1 G. A Jury Trial and;

2 H. For such other further relief as the court deems proper.

3  
4 Respectfully submitted:

5 **PINNOCK & WAKEFIELD, A.P.C.**

6  
7 Dated: September 13, 2006

8 By:



DAVID C. WAKEFIELD, ESQ.

MICHELLE L. WAKEFIELD, ESQ.

Attorneys for Plaintiffs

JS44

(Rev. 07/89)

## CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

## I (a) PLAINTIFFS

2150 SIGOURNEY JOSSIAH - FRANCIS LEE  
ASSOCIATION, SUING ON BEHALF OF THEODORE A.  
PINNOCK AND ITS MEMBERS; and THEODORE A.  
PINNOCK, An Individual

(b) COUNTY OF RESIDENCE OF FIRST LISTED  
PLAINTIFF San Diego  
(EXCEPT IN U.S. PLAINTIFF CASES)

## DEFENDANTS

CCS INVESTMENTS, INC., d.b.a. THE VILLAGE GRILLE;  
ANTHONY A. CIANI AND LISA W. CIANI REVOCABLE TRUST,  
dated 02-07-92 And DOES 1 THROUGH 10, Inclusive

SEP 15 2006

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT  
(IN U.S. PLAINTIFF CASES ONLY) San Diego  
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

## (c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Michelle L. Wakefield, Esq. SBN: 200424  
David C. Wakefield, Esq. SBN: 185736  
PINNOCK & WAKEFIELD, A.P.C.  
3033 Fifth Ave., Suite 410, San Diego, CA 92103  
Telephone: (619) 858-3671; Facsimile: (619) 858-3646

## ATTORNEYS (IF KNOWN)

'06CV 1882 WQH LSP

## II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question  
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- |   |  |   |
|---|--|---|
|   | PT DEF   | PT DEF  |
| Citizen of This State                   | <input type="checkbox"/> 1 Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 Foreign Nation  | <input type="checkbox"/> 6 <input type="checkbox"/> 6 |

## IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

42 U.S.C. Sections 12101-12102, 12181-12183, and 12201, Et. Seq.

## V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> Marine <input type="checkbox"/> Miller Act <input type="checkbox"/> Negotiable Instrument <input type="checkbox"/> 150 Recovery of overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury-Medical Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure Of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. <input type="checkbox"/> Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (13958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Tort to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input checked="" type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prisoner Conditions		

## VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

## VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION  
UNDER f.r.c.p. 23

DEMAND \$

To Be Determined At Trial

Check YES only if demanded in complaint:

JURY DEMAND: ☒ YES ☐ NO

## VIII. RELATED CASE(S) IF ANY (See Instructions):

JUDGE

Docket Number

DATE September 15, 2006

SIGNATURE OF ATTORNEY OF RECORD

129320 San 9/15/06 \$350

Michelle L. Wakefield



## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-44

## Authority For Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs - Defendants. Enter names (last, only the full name or standard abbreviations. If official, giving both name and title.

(b) County of Residence. For each civil case file of filing. In U.S. plaintiff cases, enter the name of the county of residence of the "defendant"

(c) Attorneys. Enter firm name, address, telephone section ("see attachment").

II. Jurisdiction. The basis of jurisdiction is set out in one of the boxes. If there is more than one basis, check all that apply.

United States plaintiff. (1) Jurisdiction is based on the

United States defendant. (2) When the plaintiff is

Federal question. (3) This refers to suits under the Constitution, an act of Congress or a treaty of the United States and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits between citizens of different parties must be checked. (See Section IV.)

III. Residence (citizenship) of Principal Parties. Enter section for each principal party.

IV. Cause of Action. Report the civil statute defining the

V. Nature of Suit. Place an "X" in the appropriate box sufficient to enable the deputy clerk or the state clerk to determine the nature of suit, select the most definitive.

VI. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the

Removed from State Court. (2) Proceedings in which the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for

Reinstated or Reopened. (4) Check this box for

Transferred from Another District. (5) For cases involving multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate's decision.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS-44 is used to reference relating pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet. (rev. 07/89)

UNITED STATES  
DISTRICT COURT  
Southern District of California  
San Diego Division

# 129320 - A1  
September 15, 2006

Code	Case #	Qty	Amount
CV086900	3-06-CV-1882		60.00 CC
Judge	- HAYES		
CV086400			100.00 CC
CV510000			190.00 CC
Total ->			350.00

FROM: CIVIL FILING  
2150 SIGOURNEY JOSSIAH ET AL  
V. CCS INVESTMENTS ET AL  
VISA AUTH# 011485 SH

defendant is a government agency, use the agency code, identify first the agency and then the

the first listed plaintiff resides at the time of filing. (NOTE: In land condemnation

list them on an attachment, noting in this

be shown in pleadings. Place the 'X' in

the United States are included here.

is box.

of the United States, an amendment to the plaintiff or defendant code takes precedence,

es. When Box 4 is checked, the citizenship diversity cases.)

ship was indicated above. Mark this

the cause.

use of action, in Section IV above, is of suit. If the cause fits more than one

Title 28 U.S.C., Section 1441. When the

use the date of remand as the filing date.

ing date as the filing date.

this for within district transfers or